IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 30764 of 1998

Between:

P.K.Swamy, S/o. Gattaiah,
R/o. Chinna Pendyala (V), Ghanpur,
Warangal District. **..... PETITIONER**

AND

1 The Industrical Tribunal-cum-Labour Court,

rep.by it's Presiding Officer, Warangal.
2 The Government of Andhra Pradesh,

rep.by it's Secretary, Labour Department,

Secretariat, Hyderabad
3 The Depot Manager, A.P.S.R.T.C, Bus Depot,
Warangal.
4 The Vice-Chairman-cum-Managing Director, A.P.S.R.T.C,
Musheerabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in nature of writ of certiorari, by calling for all the records pertaining to Award of the III Respondent in I.D.No.248/1996, dt.15.5.1997 published in G.O.Rt.1522, Labour, Employment, Training and Factories (Lab-I) Department, dt.12.6.1997 passed confirming the orders of removal passed by the 1st respondent in proceedings APSRTC No.2/62 (10)/93/WL-A), dt.5.8.93 and quash same after declaring the same as illegal, arbitrary and based on perverse finding and grant consequential relieves of Reinstatement with Continuity of Service and Back Wages, in the interest of Justice.

Counsel for the Petitioner:MR.B.SUDHAKAR REDDY & NEERAJA REDDY

Counsel for the Respondent No.1 : GP FOR LABOUR

Counsel for the Respondents No.2 to 4 : Mr. P. RAJINI REDDY,SC FOR APSRTC

The Court made the following :

ORDER:

This writ petition is filed by the workman being aggrieved by the award passed by the Industrial Tribunal-cum-Labour Court at Warangal in I.D.No.248/96, dated 15-05-1997.

It is the case of the petitioner-workman that he was appointed as Conductor by the respondent-Corporation and he was attached to the A.P.S.R.T.C. Bus Depot, Warangal. While so, on 15-02-1993, when he was conducting bus on the route Ghanapur to Palakurthy, a check was exercised by the officials of the Corporation and found certain cash and ticket irregularities.

A charge memo was issued to the petitioner and on the basis of the charge memo a charge sheet was issued. After submission of the explanation by the petitioner, a domestic enquiry was ordered. Subsequently, the Enquiry Officer submitted his report and after completing all the formalities, the Disciplinary Authorities passed an order removing the petitioner from the services of the corporation on 05-08-1993. Aggrieved by the same, the petitioner filed an appeal and the same was dismissed. Ultimately, he raised a dispute under Section 2-A(2) of the Industrial Disputes Act before the Industrial Tribunal –cum-Labour Court at Warangal, which is taken up as I.D.No.248/96. Before the Labour Court, it was the contention of the petitioner that the charges framed against him were vague and the domestic enquiry was not properly conducted and the findings of the Enquiry Officer as well as the Disciplinary Authority are perverse and are liable to be set aside and assuming the charges are proved the punishment of removal from service is disproportionate to the gravity of misconduct.

A detailed rejoinder was filed by the respondent-Corporation before the Labour Court in the claim petition and no oral or documentary evidence was adduced on eitherside. However, on appreciation of the facts and circumstances of the case, the Labour Court came to a conclusion that the petitioner has committed

serious misconduct by collecting bus fare from six passengers and wrongly punching on the issued tickets and those ticket fare was not accounted for in the SR, with a malafide intention, in order to re-issue them in another trip and the charges are also proved and further examined as to the proportionality and it was held that the petitioner was removed from service which is commensurate to meet the gravity of misconduct committed by the petitioner and the petitioner was not entitled for any relief and as such, the claim petition was dismissed. Aggrieved by the same, the present writ petition is filed.

I have given anxious consideration to the respective submissions made by the learned counsel on either side and gone through the award passed by the Labour Court and other material made available on record. I am of the considered opinion that the labour Court has not committed any error requiring any interference of this court under Article 226 of the Constitution of India. The Industrial Tribunal-cum-Labour Court meticulously discussed each and every aspect of the evidence and the misconduct. This is the misconduct where the petitioner having collected the fare of Rs.4.25ps from each of the six passengers who boarded the bus at stage No.9 and who got down at stage No.14 issued them tickets without accounting for the sale of the above tickets in the SR. However, he punched the ticket Nos.201/318050 to 055 of Stage No.14 in the reverse order and he had closed the issue of tickets for Rs.4.25ps denomination tickets as 050 instead of 055, even after the sale of these tickets. This all would show the game plan of the petitioner to make wrong entries and to sell the tickets in future which is nothing but a well contemplated plan to defraud the revenues of the corporation by marking wrong entries in the SR. The said charges are proved in full. Apart from this, the past conduct of the petitioner was also not clean. The petitioner was inflicted with the punishment of postponement of increments for five times earlier apart from censuring once. Thus before committing the present misconduct, the petitioner already suffered punishments in six misconducts earlier committed by him.

In view of the fact that the charges were proved in full and they were grave in nature and also in view of the past conduct of the petitioner, I am of the considered opinion that the Labour Court has rightly dismissed the claim of the petitioner filed under Section 2-A (2) of the Industrial Disputes Act and the same is neither arbitrary nor illegal and it does not require any interference of this court and therefore, the writ petition is devoid of merits and liable to be dismissed.

Accordingldy, the writ petition is dismissed. No order as to costs.

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22-06-2005

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To

1 The Presiding Officer,

Industrial Tribunal-cum-Labour Court,

Warangal.

2 The Secretary,

Government of Andhra Pradesh,

Labour Department,

Secretariat, Hyderabad

3 The Depot Manager, A.P.S.R.T.C, Bus Depot,
Warangal.

4 The Vice-Chairman-cum-Managing Director, A.P.S.R.T.C,
Musheerabad, Hyderabad.

5 Two CCs to G.P.for Labour, High Court Buildings,

High Court of A.P., Hyderabad(OUT)

6 Two CD copies